

Ackerman, Joyce

From: Stovall - CDPHE, Curtis <curtis.stovall@state.co.us>
Sent: Wednesday, October 18, 2017 8:55 AM
To: Dave Stewart, P.E.
Cc: Walker - CDPHE, David; MacGregor - CDPHE, Kelly; jason.king@coag.gov; Richard Dean; Jonathan H. Steeler (JSteeler@sennlaw.com); Henderson, Jerry; Edward Smith; randy.perila@state.co.us; Ackerman, Joyce; lkenberry, Doug; martin.ogrady@state.co.us
Subject: Fwd: Stratus Redtail Ranch

Dave,

Dave Walker from CDPHE's Hazardous Waste Corrective Action Unit reviewed your drum removal project outline. His comments are provided below (see forwarded email). Please feel free to contact Dave directly if you have questions about his comments. Here are my comments:

1. Air monitoring will be a critical aspect of this project. The plan should describe in detail plans for air monitoring.
2. The plan should describe how drums will be secured and stored in advance of removal from the site.
3. (This is related to Dave's comment on Item 4.i): Even if the plan is to remove most contaminated soil surrounding the drums, you may want to consider implementing some type of open excavation insitu treatment (e.g., chemical oxidant, etc.) to reduce levels of contamination remaining in soil and groundwater.
4. The plan should identify the transportation route for hazardous waste removal, preferably avoiding roads adjacent to neighborhoods, if possible.
5. You may want to consider placing visual screening on the perimeter fence.

Thanks,
Curt

----- Forwarded message -----

From: Walker - CDPHE, David <david.walker@state.co.us>
Date: Wed, Oct 18, 2017 at 7:45 AM
Subject: Re: Stratus Redtail Ranch
To: "Stovall - CDPHE, Curtis" <curtis.stovall@state.co.us>

Hi Curt,

The outline for the Drum Removal Project looks good with no red flags. Here are some thoughts of things they should make sure to address in the actual plan.

Item 3. This project will require construction of a decontamination pad for heavy equipment used to handle the drums and excavate contaminated soil. If they keep the heavy equipment in the work area, the decon may only have to be done once before the equipment leaves the site.

The plan will need to provide detail on how overpack drums/disposal drums will be transferred from the dirty side to the clean side for storage and transport. For example, how will they prevent tracking of contaminated soil from the work area into the secondary containment for new drums receiving waste (Item 3.d.). Alternately, if the secondary containment is within the work area, the trucks used to transport the waste to the disposal facility have a clean access route to the side of the secondary containment, or they could use a truck tire washing station transport trucks enter the work area.

Items 4.d and 4.i - The plan needs to discuss how will highly contaminated (hazardous waste) soil adjacent to the drums be containerized for shipment. There may be too much soil to cost effectively use 55-gallon drums, but the Clean Harbors incinerator may not be able to accept bulk shipments from lined roll-off containers.

Item 4.g - The plan will need to include a waste characterization plan to ensure collection data that meets the requirements of the Clean Harbors incineration facility.

Item 4.i. The plan will need to propose criteria for determining where to stop excavation of contaminated soil during the drum removal project (i.e., do they just want to remove soil that is considered hazardous waste or do they want to achieve residential/unrestricted use.). The plan should also include a confirmation soil sampling plan to provide data demonstrating that the objective has been met.

Please call me at (303) 692-3354 with questions.

Sincerely,

Dave Walker

On Wed, Oct 18, 2017 at 6:07 AM, Stovall - CDPHE, Curtis <curtis.stovall@state.co.us> wrote:
Here is the latest update from Steeler, including an outline of the drum removal plan from Stewart.

----- Forwarded message -----

From: **Jason King** <Jason.King@coag.gov>

Date: Tue, Oct 17, 2017 at 5:13 PM

Subject: Fwd: Stratus Redtail Ranch

To: Curtis Stovall - CDPHE <curtis.stovall@state.co.us>, "doug.jamison@state.co.us"

<doug.jamison@state.co.us>, Edward Smith - CDPHE <edwardh.smith@state.co.us>, randy perila

<randy.perila@state.co.us>

See below and attached conceptual work plan. Please let me know if you intend to provide comments. This will probably move fast.

Amelia will provide me a draft of the AOC for review.

Begin forwarded message:

From: "Jonathan H. Steeler" <JSteeler@sennlaw.com>

Date: October 17, 2017 at 4:40:06 PM MDT

To: "Piggott, Amelia" <Piggott.Amelia@epa.gov>, "Ackerman, Joyce"

<Ackerman.Joyce@epa.gov>, "jason.king@coag.gov" <jason.king@coag.gov>, 'Kevin Olson'

<kolson@us.ibm.com>

Cc: "rdean@stratuscompanies.com" <rdean@stratuscompanies.com>, 'Dave Stewart'

<Dave.Stewart@stewartenv.com>

Subject: Stratus Redtail Ranch

Amelia:

Following up on our call of yesterday, I want to reiterate that Stratus Redtail Ranch, LLC is prepared to undertake a removal action of the drums and liquid within the drums at the Stratus Property. I have attached a conceptual outline of the proposed removal action. If the foregoing is acceptable, we will turn this into a plan that can be attached to an AOC to be entered into between EPA and Stratus. On Friday 10/13, you also requested a copy of the results of the latest round of site investigations. This information will be forwarded to you and Joyce Ackerman under separate cover later this week or at the beginning of next week at the same time that it is submitted to the State of Colorado.

We understand from your email of October 13th, that EPA is concerned about site security and the potential for leakage from the drums. To address security issues, my client is prepared immediately to install fencing around the areas where the investigation has indicated that drums are present. Please advise if EPA would like this for Stratus to proceed with fencing. With regard to the potential for ongoing leakage from the drums, the investigations to date has not revealed any evidence that the drums are leaking. Notwithstanding the foregoing, Stratus believes that the work can be accomplished by the end of November at the earliest and mid-December at the latest. The timing somewhat depends upon our ability to negotiate a removal plan and an acceptable AOC.

You have indicated that due to the lack of available EPA resources, that we simply use the model AOC. Could you please forward the same to me ASAP? While we understand the Agency's desire to use the model, in view of the unwillingness of IBM, clearly a PRP, to participate in any sort of discussion, we request that the AOC provide Stratus with contribution protection, at least with respect to the work being proposed. As an innocent landowner who performed all appropriate inquiry prior to acquisition, I believe my client should be protected against claims by IBM or other PRPs given its willingness to step up and perform the drum removal. We would also like to discuss EPA waiving its ability to recover oversight costs from Stratus. Oversight costs, if any, should be sought from other PRPs who, to date, have done nothing towards site clean-up. Stratus has expended approximately \$500,000 at this site while PRPs have spent nothing.

In addition, we would like to discuss possible assurances from EPA regarding Stratus' innocent landowner status so as to provide my client comfort that it will be treated consistently with its limited involvement at this site. While not a condition of doing the work, we would like to discuss the same as well as any assistance EPA can provide with regard to other PRPs. These discussions can certainly be done after the drum removal AOC is finalized and the removal

effort is completed. As I indicated in our telephone call, on Wednesday of last week, I was advised by counsel for IBM that at this time IBM had no interest in participating in any further discussions regarding the site. Accordingly, It is likely that my client will commence litigation against IBM in the near term. I have copied counsel for IBM with this email and if the foregoing statement is an incorrect characterization of IBM's position, I am sure counsel will correct that position.

I have copied Jason King with this email and I assume he will provide copies to the various folks at CDPHE. My client will be sharing this email with the Town of Erie as well. We believe that it is important that EPA, the State and the Town are all on the same page during the removal action.

Thank you for your efforts. I look forward to hearing from you regarding a path forward. Jon

Jonathan H. Steeler
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Solid Waste Permitting Unit
Solid Waste and Materials Management Program



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Hazardous Materials
& Waste Management Division
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